In the High Court of Judicature at Madras

Dated: 25.09.2006

Coram:

The Honourable Mr. Justice P. SATHASIVAM
and
The Honourable Mr. Justice S.TAMILVANAN

Habeas Corpus Petition No.678 of 2006

Karunaiammal .. Petitioner

vs.

1. State of Tamil Nadu, rep.by
   Secretary to Government,
   Prohibition and Excise Department,
   Fort St.George,
   Chennai-9.

2. The District Magistrate and
   District Collector,
   Coimbatore District. .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of writ of habeas corpus as stated therein.

For petitioner : Mr.C.Ramkumar

For respondents : Mr. M.Babu Muthu Meeran,
Additional Public Prosecutor

ORDER

(Order of the Court was made by P. SATHASIVAM,J.)

The petitioner, who is the wife of the detenu, by name Urundaipalanisamy @ Palanisamy, who was detained as "Bootlegger" as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 24.06.2006, challenges the same in this Petition.

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2. Heard the learned counsel for the petitioner as well as the learned Additional Public Prosecutor for the respondents.

3. At the foremost, the learned counsel appearing for the petitioner, by drawing our attention to the averments in para 5 of the grounds of detention, submitted that though the sponsoring authority has stated that the remand period was extended from 13.06.2006 to 26.06.2006, the said order was neither placed before the detaining authority nor supplied copy of the same to the detenu. According to him, the detaining authority has very much relied on the remand extension order and after satisfying itself, has passed the impugned detention order. Failure to produce the same to the said authority and supplied copy of the same to the detenu, vitiates the detention order.

4. In the light of the said contention, we verified those averments as well as the documents supplied in the form of booklet. It is not in dispute that as per the order of the Judicial Magistrate, Avinashi, the detenu was lodged at Central Prison, Coimbatore till 07.06.2006; again he was produced before him on 07.06.2006 and his remand period has been extended upto 13.06.2006. Thereafter, though paragraph 5 shows that his remand period has been extended upto 26.06.2006, the paper book supplied to the detenu does not contain an order from the Judicial Magistrate, Avinashi for the same.

5. No doubt, the learned Additional Public Prosecutor has placed an affidavit of the sponsoring authority informing that the detenu's remand was further extended upto 26.06.2006, the fact remains that the said document is not available.

6. In such circumstances, we accept the contention of the learned counsel for the petitioner. Inasmuch as the remand extension order being relied upon by the sponsoring authority, failure to place the same before the detaining authority and to the detenu along with grounds of detention, vitiates the impugned detention order. On this ground, we are inclined to interfere with the same.

7. Accordingly, the impugned order of detention is quashed and the habeas corpus petition is allowed. The detenu is directed to be set at liberty forthwith, unless he is required in connection with any other case.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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To

1. The Secretary to Government
   Prohibition and Excise Department
   Fort St. George
   Chennai-9.

2. The District Magistrate and
   District Collector,
   Coimbatore District.

3. The Superintendent
   Central Prison,
   Coimbatore.
   (in duplicate for communication to detenu)

4. The Joint Secretary to Government,
   Public (Law & Order),
   Fort St.George,
   Chennai-9.

5. The Public Prosecutor
   High Court, Madras.

H.C.P.No.678 of 2006

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